

DIVISION 2. USE PERMIT

Sec. 25-191. Required.

No building, other structure or land shall be used, nor shall any building be constructed, or building converted, wholly or in part, to any other use, nor shall any structural changes in a building be made until plans and specifications for such use are approved by the issuance of a use permit as provided herein. A use permit shall not be required for single-family or semidetached residential structures and related accessory uses or for uses by temporary permit issued by the Superintendent of the Division of Licenses and Inspection. No building permit shall be issued until a use permit, if required, has been issued.

(Laws of Rockville, Ch. 6, § 1-301)

Sec. 25-192. Application.

(a) Use permit applications shall be submitted to the Planning Commission for the following uses, unless the use is on land owned by the City or purchased by the applicant from the City in the Town Center Performance District:

- (1) Multiple-family dwellings;
- (2) Townhouses;
- (3) Publicly owned or operated buildings and uses;
- (4) Multiple-use buildings of more than twenty-five thousand (25,000) square feet of gross floor area;
- (5) Uses on land zoned inconsistent with the adopted plan;
- (6) Uses on land abutting recommended permanent zone boundaries with residential uses;
- (7) Uses on land within the Town Center Planning Area;
- (8) Uses on land within the Rockville Pike Corridor Area.

(b) Use permit applications for uses on land owned by the City or purchased by the applicant from the City in the Town Center Performance District shall be submitted to the Mayor and Council.

(c) All other use permit applications shall be submitted to the Director of Planning unless otherwise directed by the Planning Commission.

(d) Each application shall be submitted on forms provided therefor by the Planning Commission and be accompanied by such fee as is determined by resolution of the Council. The applicant shall furnish as part of the application such information as may reasonably be required by the Planning Commission or the Mayor and Council.

(Laws of Rockville, Ch. 6, §§ 1-302, 1-303; Ord. No. 8-89, § 2(6), 4-24-89; Ord. No. 34-90, § 3, 11-26-90)

Sec. 25-193. Issuance; term, etc.

(a) A use permit shall be issued if the Planning Commission, the Mayor and Council, or the Director of Planning, as the case may be, finds that the use proposed in the application will not:

- (1) Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;

(2) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; or

(3) Constitute a violation of any provision of this Code or other applicable law.

(b) The Planning Commission, the Mayor and Council, or the Director of Planning may attach such conditions to the approval of the use permit as may be reasonable and necessary to assure that the proposed use will be consistent with the purpose and intent of this chapter. Such conditions of approval may include, but not be limited to, a requirement that plans and programs for soil erosion and sediment control, as may be recommended by the Soil Conservation Service, be carried out in conjunction with the use and development of any land for which a use permit is issued, and a limitation on the time for implementing all phases of a multiple building development use permit. Notwithstanding the provision of subsection (d) hereof, the limitation for commencement for all phases of development for a multiple building development use permit, shall not exceed eight (8) years.

(c) No deviation from the plans so approved shall be permitted without approval as provided in this subsection:

(1) No substantial deviation from plans approved shall be permitted without the approval of a new use permit following the same procedure as in the case of an original application;

(2) Any deviation not deemed substantial by the Director of Planning may be considered and acted upon by the Director of Planning following submission of an application to amend the use permit;

(d) Construction or operation shall commence within two (2) years of the date of issuance or the use permit shall become void. For good cause shown, not more than two (2) extensions not exceeding one (1) year each, may be granted by the Planning Commission, the Mayor and Council, or the Chief of Planning, depending on who has authority over the application.

(e) Whenever the Planning Commission, the Mayor and Council, or the Director of Planning find that any permit previously approved has not been complied with, the Planning Commission, the Mayor and Council, or the Director of Planning are authorized after written notice by first class mail to the applicant and any persons who appeared before the Commission, or the Mayor and Council or entered their appearance in writing prior to the approval of the use permit, and after granting the applicant an opportunity to be heard, to suspend or revoke the use permit or take such other action as deemed necessary.

(Laws of Rockville, Ch. 6, § 1-304; Ord. No. 22-88, § 2, 7-25-88; Ord. No. 9-90, § 3, 5-14-90; Ord. No. 34-90, § 3, 11-26-90; Ord. No. 27-91, § 2, 11-18-91; Ord. No. 15-93, § 2, 10-25-93)

Secs. 25-194--25-205. Reserved.

DIVISION 2. USE RESTRICTIONS

Sec. 25-296. Tables of uses.

- (a) *Tables adopted.* With the various zones established by this chapter, use of land shall be governed by the following tables.
- (b) *Meaning of "P" symbol.* Uses designated therein by the symbol "P" are permitted in the zones bearing such designation.
- (c) *Meaning of "(P)" symbol.* Uses designated by the symbol "(P)" are permitted subject to special restrictions set forth in this article.
- (d) *Meaning of "S" symbol.* Uses designated by the symbol "S" are permitted by special exception.
- (e) *Absence of symbol.* Where a zone contains no designation for such use, it is prohibited.

*The special exception standard applies to the residential units only within a mixed use development in these zones.

TABLE OF USES

RESIDENTIAL USES		R-E	R	R-150	R-90	R-75	R-60	R-40	R-30	R-20	R-H	RPC	RPR	C-1	C-2	I-1
a. Residential																
1. Detached one-family dwellings		P	I		P	P	P	(P)								
2. Semidetached one-family dwellings (duplex)								P								
3. Attached one-family dwellings (townhouses)									P	P	P	P	P			
4. Multiple-family dwellings									P	P	P	P	P			
5. Housing for elderly and physically handicapped		S	I	S	S	S	S	S	S	S	S	S	S		S	
6. Accessory apartment		S	I	S	S	S	S									
b. Home occupations.																
1. Professional office.		P	I	P	P	P	P	P	P	P	S	P	P			
2. Office in which chattels or goods, wares or merchandise are not commercially created, exchanged, sold or distributed.		P	I	P	P	P	P	P	P	P	S	P	P			
3. Fine arts studio in which are created or restored only individual works of art.		P	I	P	P	P	P	P	P	P	S	P	P			
4. Rooming or boarding of not more than 2 persons.		P	I	P	P	P	P	P	P	P	S	P	P			
5. Custom dressmaking, millinery, tailoring, sewing of fabric for custom apparel and custom home furnishings.		P	I	P	P	P	P	P	P	P		P	P			
6. Tutoring of not more than 4 students simultaneously.		P	I	P	P	P	P	P	P	P	S	P	P			
7. Cosmetologist.																
a. 20 or less customer visits per week	(P)	(P)	(I)	(P)	(P)	(P)	(P)									
b. more than 20 customer visits per week	S	S	S	S	S	S	S									
c. Swimming pools.																
1. Nonaccessory.	S	S	S	S	S	S	S	S	S	S						
2. Accessory.	P	P	P	P	P	P	P	P	(P)	(P)	(P)	(P)	(P)			
d. Institutional.																
1. Educational institutions, private	S	S	S	S	S	S	S	S	S	S	S	P				
2. Nursing homes.	S	S	S	S	S	S	S	S	S	S	S					
3. Child care home.	P	P	P	P	P	P	P	P	P	P	P		P			

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	R-E	R-S	R-I
COMMERCIAL OFFICE AND INDUSTRIAL USES			
D. Boats and marine supplies			
E. Books, magazines and newspapers			
F. Bicycles.			
G. Drugs, including soda for fountain.			
H. Flowers, except from outdoor garden or greenhouse			
I. Garden supplies.			
J. Craft and hobby supplies.			
K. Groceries.			
L. Hardware.			
M. Household appliances.			
N. Music, musical instruments and accessories and recordings.			
O. Paint and wallpaper supplies.			
P. Pets.			
Q. Photographic supplies.			
R. Shoes.			
S. Sporting goods.			
T. Stationery.			
U. Variety and dry goods.			
V. Wearing apparel.			
W. Jewelry, including repair.			
X. Luggage, including repair.			
Y. Retail sales not expressly permitted or prohibited in the zone.			
Z. Video equipment, tapes and accessories, including rental and repair.			
A. Computers and accessories, including repair.			
B. Engineering instruments.			
Bakery and confectioners for items sold only on the premises.			
Locksmith.			
Taxicab service.			
Mail order house.			
Shoe repair.			
Auctioneer and commercial gallery.			
Tailoring, dressmaking and pressing.			
Barbershops and beauty shops.			

[illegible]

ZONING AND PLANNING

§ 25-296

	R-E	R	R-150	R-90	R-75	R-60	R-40	R-30	R-20	R-H	RPC	RPR	C-1	C-2	I-1
COMMERCIAL OFFICE AND INDUSTRIAL USES															
10. Photographic studio.											P		(P)	P	
11. Optician.											P		(P)	P	
12. Office of banks and saving and loan associations not having drive-in facilities for the transaction of business from motor vehicles.											P	P	P	P	S
13. Office of banks and savings and loan associations having drive-in facilities for the transaction of business from motor vehicles.											S	S	S	S	S
14. Dry cleaning only for work accepted on premises.											P	P	P	P	
15. Dry cleaning and laundry pickup station for work to be done off the premises.											P	P	P	P	
16. Laundromat.											P	P	P	P	
17. Restaurant:															
A. Restaurant, full service or fast food freestanding or in multi-tenant buildings, with drive-through or drive through only.											S			S	
B. Restaurant, full service or fast food freestanding, no drive-through.											P			P	
C. Restaurant, full service or fast food in multi-tenant building, no drive-through.											P	P	P	P	S
D. Accessory restaurant.											P		P	P	
18. Taverns and nightclubs serving all legal beverages.											P			P	
19. Funeral home.											P			P	
20. Bakery and confectioner.											P	P	P	P	P
21. Delicatessen/carryout.											P		(P)	P	
22. Private postal service.											P			P	P
23. Automobile rental.											P			P	S
24. Pawnbroker.															
b. Home and business services.															
1. Retailing of:															
A. Lumber and other building supplies.															P
B. Lumber and other building supplies, indoor sales and storage only.											P			S	

	R-E	R-S	R-
COMMERCIAL OFFICE AND INDUSTRIAL USES			
C. Heavy construction equipment and agricultural equipment.			
D. Business machines, including minor repairs, and office supplies.			
E. Scientific and laboratory supplies.			
F. Medical supplies and equipment.			
G. Home furniture and furnishings.			
H. Power tools.			
I. Office furniture and furnishings.			
J. Electroplating.			
K. Electrical contractor.			
L. Radio, television and recording equipment repair.			
M. Cabinetmaking and carpentry.			
N. Plumbing and heating contractor.			
O. Sheet metal shop.			
P. Sign fabrication and maintenance.			
Q. Interior decorator.			
R. Painting and decorating contractor.			
S. Caterer.			
T. Picture framing.			
U. Duplicating service.			
V. Boat repair and service.			
W. Support services to restricted industrial uses including consulting firms, instrument repair and service, data processing facilities.			
X. Printing and lithographing.			
Y. Rental of any commodity allowed in the industrial zone.			
Z. Repair and servicing of household appliances and equipment.			
AA. Upholstering.			
AB. Glass studio sales and installation.			
AC. Offices.			
AD. General and professional offices excluding medical practitioners.			

COMMERCIAL OFFICE AND INDUSTRIAL USES		R-E	R-S	R-I
1. Mechanical car wash.				
2. Tires, batteries and accessories, including service incidental thereto.				
3. Automobile repair parts sales, excluding installation and service.				
4. Motor vehicle towing service without storage.				
5. Automobile fluid maintenance station.				
6. Manufacturing and processing.				
7. Manufacture of cinder blocks and concrete blocks, steps, sills and lintels.				
8. Any light manufacturing, processing or compounding use not expressly permitted.				
9. Dry cleaning and laundry plant, excluding customer service.				
10. Ready-mixed concrete plant.				
11. Processing or compounding of drugs and cosmetics.				
12. Packaging of previously prepared commodities.				
13. Assembly of electrical and electronic appliances and equipment and precision instruments.				
14. Photographic processing.				
15. Machine shop.				
16. Bottling plant.				
17. Ice plant.				
18. Blacksmith.				
19. Any service industrial use not expressly permitted.				
20. Dry cleaning and laundry plant, including customer service.				
21. Assembly and entertainment.				
22. Rental halls for meetings and social occasions.				
23. Indoor entertainment establishments, commercial, except shooting gallery or range.				
24. Shooting galleries or ranges.				

ZONING AND PLANNING

§ 25-296

	R-E	R.	R-150	R-90	R-75	R-60	R-40	R-30	R-20	R-H	RPC	RPR	C-1	C-2	I-1
COMMERCIAL OFFICE AND INDUSTRIAL USES															
4. Outdoor recreational establishment, commercial, except shooting gallery or range.											S			S	
5. Theater.											P			P	
6. Dinner theater.											P			P	
7. Health and fitness establishment.											P		(P)	P	
8. Recreational establishment, indoor, commercial, except shooting gallery or range.											P		(P)	P	(P)
9. Recreational and sport facility, indoor, commercial.															P
j. Wholesaling, warehousing and storage.															
1. General warehousing															P
2. Warehousing of consumer goods only															
3. Junk yards and building materials salvage yards.															S
4. Contractor's storage yards for equipment and materials.															P
5. Public utility outdoor storage and vehicle parking.															P
6. Cold storage facility.															P
7. Fuel and feed yards including bulk fuel oil storage.															P
8. Wholesaling of items or commodities manufactured, processed, or compounded on the premises.															P
9. Wholesaling of any commodity permitted in the industrial zone.															P
10. Warehouse, self-storage.															P
k. Other uses.															
1. Publicly owned or operated buildings and facilities.											P	S	P	P	P
2. Hotel.											(P)			(P)	S
3. Trucking freight terminal.											P			P	P
4. Radio, television or recording studio.															P
5. Greenhouses, including retail sales.															P
6. Research laboratories.															P
7. Newspaper, book and magazine publishing and printing.											P			P	P
8. Private heliports.											S			S	S
9. Private heliports.											S			S	S

ROCKVILLE CITY CODE

	R-E	R-S	R.
COMMERCIAL OFFICE AND INDUSTRIAL USES			
10. Public transportation station.			
11. Floor coverings, sales and installation			
12. Adult entertainment establishments			
13. Personal living quarters			
14. Dwellings			
The permitted dwellings in the I-1 zone must be in conjunction with a warehouse, self storage as defined in Section 25-1.			
Uses by temporary permit issued by the Chief of Inspection Services.			
1. Christmas tree sales between the fourth Friday in November and December 25			
2. Garden produce only during the months of May through October			
3. Temporary carnivals			
Mobile uses, general and professional offices			

where:

turning both the I-2 zoned and the I-3 zoned land, has been approved initially on or before September 12, 2000, and in the same subdivision record plat;

Professional offices excluding medical practitioners," under the Rockville Zoning Ordinance, as amended.

s of Rockville, Ch. 6, § 3-201; Ord. No. 12-85, § 2(3) 4-8-85; Ord. No. 14-86, §§ 1, 2, 6-2-86; Ord. No. 6-87, § 2, 5-11-87; Ord. No. 17-87, § 3, 9-14-87; Ord. No. 2-89, § 2, 1-23-89; Ord. No. 8-89, § 2(3), 4-24-89; O. No. 15-89, § 2, 5-8-89; Ord. No. 26-89, §§ 4—7, 9-25-89; Ord. No. 30-89, § 3, 10-30-89; Ord. No. 3-90, § 2, 1-23-90; Ord. No. 24-90, § 3, 9-10-90; Ord. No. 2-91, § 2, 1-14-91; Ord. No. 21-91, § 1(1), 8-5-91; Ord. No. 25-91, § 4, 9-23-91; Ord. No. 5-92, § 2, 4-27-92; Ord. No. 11-93, §§ 2, 3, 7-26-93; O. No. 25-93, § 4, 12-13-93; Ord. No. 3-94, § 3, 2-14-94; Ord. No. 4-95, §§ 3, 4, 6-12-95; Ord. No. 7-96, § 2, 1-22-01; Ord. No. 20-01, §§ 3—6, 8-6-01; Ord. No. 12, 4-8-02; Ord. No. 7-03, § 2, 4-28-03; Ord. No. 10-03, §§ 2, 3, 5-12-03; Ord. No. 20-03, 7-28-03; Ord. No. 0-04, § 2, 10-4-04)

Sec. 25-297. Accessory uses in R-H Zone.

In addition to the uses authorized in the R-H Zone as set forth in section 25-296, incidental services may be provided within any multiple-family dwelling constructed in the R-H Zone for the convenience of occupants, including newsstand, snack bars and personal service shops, provided that the following conditions are fulfilled:

- (1) Not more than two (2) percent, including hallway space, of the total floor area devoted to dwelling units within the apartment building shall be used;
- (2) All such incidental services shall be situated within the interior of the building, so that no part thereof shall be directly accessible to street, public or private way;
- (3) No sign or window display shall be discernable or visible from a sidewalk, street, public or private way;
- (4) Such incidental services shall not be provided on the same floor as dwelling units are situated, unless separated therefrom by an unpierced firewall.

(Laws of Rockville, Ch. 6, § 3-202)

Sec. 25-298. Prohibited uses in I-1 Zone.

For the purposes of section 25-296, the following uses shall not be deemed service industrial uses, and are expressly prohibited as uses in the I-1 Zone:

- (1) Slaughterhouse;
- (2) Arsenal;
- (3) Blast furnace;
- (4) Boiler works;
- (5) Distillation of bones, coal or wood;
- (6) Dump, incineration or reduction of dead animals, garbage or offal, except when operated or licensed by a duly authorized public agency;
- (7) Dwellings;
- (8) Fat rendering, grease, lard or tallow manufacturing or processing;
- (9) Forge plant;
- (10) Manufacture of acetylene, ammonia, bleaching powder, chlorine, asphalt, celluloid or pyroxyline (or treatment thereof), disinfectants, emery cloth or sandpaper, explosives, fireworks or gunpowder (or storage of same), exterminators or insecticides, fertilizers, gas for illumination or heating, glue, size or gelatin, lampblack, leather goods, linoleum, matches, mortar, lime, plaster, cement, gypsum, oilcloth or oiled products, paint, oil, shellac, turpentine or varnish, potash, rolling mill, rubber or products made therefrom, shoeblackening or polish, soap, soda or soda

compound, sulphuric, nitric, hydrochloric or other corrosive acids, tallow, grease or lard, tar or tar roofing or waterproofing or other tar products (or distillation thereof), or yeast;

- (11) Ore reduction;
- (12) Packing house, including meat canning or curing;
- (13) Petroleum refining or storage in more than tank car lots;
- (14) Smelting;
- (15) Stockyard;
- (16) Tanning, curing or storage of leather, rawhides or skins;
- (17) Wool pulling or scouring;
- (18) Commercial wrecking or dismantling of automotive vehicles; or
- (19) Any use of a heavy industrial nature.

(Laws of Rockville, Ch. 6, § 3-203)

Sec. 25-299. Prohibited uses in I-2 Zone.

For the purposes of section 25-296, the following uses shall not be deemed light manufacturing, processing or compounding uses, and are expressly prohibited as uses in the I-2 Zone:

- (1) All uses prohibited by section 25-298;
- (2) Any retail, commercial or residential use;
- (3) Junk yards and building material salvage yards;
- (4) Contractors' yards for equipment and materials;
- (5) Animal hospital, including kennels;
- (6) Automotive and truck repair garages providing services such as rebuilding, body and paint work, overhauling, tire retreading and recapping;
- (7) Manufacture of concrete and cinder blocks;
- (8) Concrete steps, blocks, sills, lintels and similar products of comparable size, bulk and weight; and
- (9) Ready-mixed concrete plant and fuel and feed yards.

(Laws of Rockville, Ch. 6, § 3-204)

Sec. 25-300. Additional restrictions in H-D Zone.

The H-D Historic District Zone imposes restrictions upon land and structures in addition to those contained in the residential, commercial, industrial or office zone in which such land or structure is located, all as are more particularly set forth in State law.

(Laws of Rockville, Ch. 6, § 3-205)

State law references: Historic districts, Anno. Code of Md., Art. 66B, § 8.01 et seq.

Secs. 25-301--25-310. Reserved.

ARTICLE VIII. SPECIAL EXCEPTIONS

DIVISION 1. GENERALLY

Sec. 25-336. Approval of Board of Appeals required for special exception.

No special exception use authorized by section 25-296 shall be permitted unless a special exception therefor has been granted by the Board of Appeals in accordance with the requirements of this chapter and State law.

(Laws of Rockville, Ch. 6, § 4-101)

State law references: Special exceptions, Anno. Code of Md., Art. 66B, § 4.07(d).

Sec. 25-337. Special procedures.

(a) *Posting of sign.* Within three (3) business days after the filing of a petition for the grant of a special exception, the petitioner shall erect and maintain a sign in accordance with the requirements of section 25-121, except that the wording on such sign shall read:

NOTICE

SPECIAL EXCEPTION APPLICATION NO. _____

HAS BEEN FILED

TO PERMIT _____

(Fill in special exception use applied for)

A HEARING BEFORE THE BOARD OF APPEALS WILL

BE HELD ON _____

(Fill in hearing date)

FOR FURTHER INFORMATION, CALL _____

(Telephone Number of Department of Community
Development)

Such sign shall be prepared by the Department of Community Development and furnished to the petitioner within two (2) business days after filing of the petition. Any sign erected hereunder shall be maintained at all times by the applicant until final action

by the Board of Appeals on the application to which it pertains. It shall be unlawful for any person to remove or tamper with any sign erected under this section during the period it is required to be maintained hereunder. An affidavit meeting the requirements of section 25-121, subsection (j) shall be filed by the applicant at the hearing on the petition or within ten (10) days thereafter.

(b) *Notice of decision.* The Board of Appeals shall provide written notice of its decision on any special exception petition by first class mail to the petitioner, the Planning Commission and to any other person who has entered an appearance in writing prior to decision by the Board.

(c) *Zoning map to indicate special exception.* Upon receipt of a notice of a grant of a special exception, the Planning Commission shall indicate the same in the proper place on the zoning map by use of an appropriate code number or symbol.

(Laws of Rockville, Ch. 6, § 4-102; Ord. No. 6-94, § 3, 2-28-94)

Sec. 25-338. Standards for granting.

The Board of Appeals shall not grant any petition for a special exception unless it finds from a preponderance of the evidence of record that:

- (1) The proposed use does not violate or adversely affect the Plan, this chapter or any other applicable law; and
- (2) The proposed use at the location selected will not:
 - a. Adversely affect the health and safety of residents or workers in the area; or
 - b. Overburden existing public services, including water, sanitary sewer, public roads, storm drainage and other public improvements; or
 - c. Be detrimental to the use or development of adjacent properties or the neighborhood; or
 - d. Change the character of the neighborhood in which the use is proposed considering service currently required, population density, character, and number of similar uses; and
- (3) The proposed use complies with any requirements of this chapter that are applicable thereto.

(Laws of Rockville, Ch. 6, § 4-103)

Sec. 25-339. Conditions.

- (a) The Board of Appeals may impose terms, conditions and restrictions upon the grant of any special exception that are reasonably necessary to protect adjacent properties, the neighborhood, and the residents and workers therein.
- (b) Whenever the Board finds that any of the terms, conditions or restrictions upon which a special exception was granted have not been complied with, it is authorized after written notice by first class mail to the petitioner, the owners of

all properties within a radius of two hundred (200) feet of the lot boundaries of the petitioner, and those persons who entered their appearance in writing prior to the Board's grant of such special exception, and after granting the petitioner full opportunity for a public hearing, to suspend or revoke the grant of such special exception or take other action as it deems necessary to assure compliance.

(c) The Board of Appeals may not modify the terms, conditions or restrictions imposed upon any special exception previously granted except by consideration of a new petition for special exception which, if granted, shall supersede any prior special exception and any terms, conditions or restrictions imposed on the grant thereof.

(Laws of Rockville, Ch. 6, §§ 4-104, 4-105)

Secs. 25-340--25-350. Reserved.

DIVISION 2. REQUIREMENTS FOR CERTAIN SPECIAL EXCEPTIONS

Sec. 25-351. Generally.

In addition to the requirements contained in division 1 of this article, the Board of Appeals shall not grant any petition for a special exception unless it makes the additional findings, if any, applicable to such use as enumerated in this division and the special development and use requirements imposed by this division, including use restrictions, development standards, parking, loading and access requirements, screening and landscaping requirements and sign requirements, are complied with or, as an express condition upon the granting of such special exception, will be complied with prior to the issuance of an occupancy permit. Continuing compliance with all of the special development and use requirements imposed by this division is required subsequent to the granting of any special exception and a failure to comply with such requirements shall be a violation of this chapter. In addition, all such requirements shall be deemed continuing condition imposed upon the grant of any special exception for the purposes of section 25-339.

(Laws of Rockville, Ch. 6, § 4-105)

Sec. 25-352. Adult entertainment establishments.

- (a) *Scope.* This section applies to adult entertainment establishments.
- (b) *Additional required findings.* The additional required findings are as follows:
 - (1) That the owners and operators of any adult entertainment establishment have devised and will implement a procedure sufficient to ensure that no person under the age of eighteen (18) will be allowed access to the establishment;
 - (2) That neither the owner nor the operator of such a use has ever been convicted of violating any law, ordinance, or regulation dealing with obscenity or restricting the access of minors to material, activities or establishments.

(c) *Additional development standards.* No adult entertainment establishment shall be located within a structure which is located within one thousand (1,000) feet of the nearest property line of any residence, school, church, library, public facility or public building.

(d) *Additional use requirements.* Additional use requirements are as follows:

(1) No employee of any adult entertainment establishment shall be under the age of eighteen (18) or shall ever have been convicted of violating any law, ordinance, or regulation concerning obscenity or restricting the access of minors to materials, activities or establishments;

(2) No person under the age of eighteen (18) shall be allowed access to any adult entertainment establishment;

(3) No sexually oriented material or sexually oriented activities shall be visible or audible from outside the establishment.

(Laws of Rockville, Ch. 6, § 4-221)

Sec. 25-353. Automobile filling station, class I; automobile filling station, class II; restaurant with drive-through or drive-through only and mechanical carwash.

(a) *Scope.* Except as otherwise provided in this section, the provisions of this section apply to automobile filling stations, class I; automobile filling stations, class II; restaurants with drive-through; and mechanical carwashes.

(b) *Additional findings required.* The additional findings required are as follows:

(1) That for the public convenience and service a need exists for the proposed use due to an insufficient number of similar uses presently available to serve existing population concentrations in the City; and

(2) That the use at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood or the proposed use.

(c) *Special development and use requirements generally.* The following special development and use requirements shall apply to all uses enumerated in this section:

(1) **Additional Development Standards.**

a. All uses enumerated in this section shall be located in such a manner that the proposed use does not:

1. Preempt frontage on a major highway in such a manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use which is oriented to the same highway; or

2. Impair the movement of through traffic along an adjoining thoroughfare through congestion and reduction of street capacities or cause the storage or backup of vehicles in the public right-of-way while awaiting service on the property in question; or
3. Cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity; or
4. Result in a fragmentation of the development pattern, thereby creating unnecessary additional points of vehicular conflict with an adjoining highway and adversely affecting the orderly development of the surrounding neighborhood;
5. Preempt the use of any parking spaces, on-site driveways or cause vehicles to back up into adjacent service drives or public roads by vehicles waiting for service. This subsection (c)(1)a.5. applies only to restaurants with drive-through.

b. All uses enumerated in this section shall be required to occupy a record lot which:

1. Is at least four hundred (400) feet away from any school site or parcel of ground zoned for residential use. This setback shall not apply to residential or educational properties recommended for a nonresidential or noneducational use on the Plan;
2. Has a minimum of two hundred (200) feet of lot frontage on a business district road or major highway at the front lot line, and shall preempt the utilization of such two hundred (200) feet of frontage by any other use; and
3. Has a minimum lot size of forty thousand (40,000) square feet, and shall preempt the utilization of such forty thousand (40,000) square feet by any other use;

(2) Additional Parking, Loading and Access Requirements.

- a. When a use enumerated in this section occupies a corner lot, the ingress and egress driveways shall be located at least seventy-five (75) feet from the point of intersection of the street line and the corner arc;
- b. Open storage of motor vehicles or trailers, except those temporarily awaiting service during the business hours of the establishment, is prohibited;
- c. Vehicular access to any residential street is prohibited;

(3) Additional Screening and Landscaping Requirements. Lighting facilities shall be so arranged or screened that they neither disturb the occupants of nearby residential properties nor interfere with the movement of traffic.

(d) *Special development and use requirements for automobile filling station, class I.*

(1) *C-1 Zone.* The following special development and use requirements shall apply only to automobile filling stations, class I, located in the C-1 Zone:

a. Such use is required to:

1. Be an integral part of a neighborhood shopping center;
2. Be contained in a structure limited in size to two (2) single car service bays plus rest rooms and office or supply storage space;
3. Be limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries and automobile accessories directly to motor vehicles and to washing, polishing and servicing motor vehicles only to the extent of installation of the enumerated items;
4. Neither rent nor sell motor vehicles, trailers or general placement parts; nor overhaul, tune up or repair motors or bodies, provide brake relining or wheel alignment service, up holstery work, auto glass work, painting, welding, tire recapping or auto dismantling; and
5. Extinguish all floodlights at the close of business or 11:00 p.m., whichever is earlier;

b. Gasoline pumps or other service appliances shall be located on the lot at least twenty (20) feet behind the building line, and all service, storage or similar activities in connection with such use shall be conducted entirely within the premises;

c. The following additional parking, loading and access requirements apply:

customers on streets, alleys, public sidewalks or public park strips is prohibited;

2. When such use occupies a corner lot, the ingress and egress driveways shall be located at least thirty (30) feet from the point of intersection of the street line and the corner arc, and such driveways shall not exceed twenty-five (25) feet in width;

(2) *C-2 Zone.* The following special development and use requirements shall apply only to automobile filling stations, class I, located in the C-2 Zone:

a. Gasoline pumps or other service appliances shall be located on the lot at least twenty (20) feet behind the building line; and

b. All service, storage or similar activities in connection with such use shall be conducted entirely within the premises.

(e) Special use requirements for automobile filling station, class I and automobile filling station, class II in the I-1 and I-4 zones. Retailing of groceries shall not be permitted.

(Laws of Rockville, Ch. 6, § 4-202; Ord. No. 3-90, § 6, 3-12-90; Ord. No. 15-92, § 4, 10-26-92; Ord. No. 15-92, § 4, 10-26-92; Ord. No. 4-01, § 4, 1-22-01)

Sec. 25-354. Branch office of bank or savings and loan association.

(a) *Scope.* This section applies to branch offices of banks or savings and loan associations.

(b) *Additional findings required.* The additional required finding is that such service is necessary to the convenience of businesses and employees in the surrounding area.

(Laws of Rockville, Ch. 6, § 4-204)

Sec. 25-355. Child care center.

(a) *Additional findings required.*

(1) That such use will not constitute a nuisance because of traffic, number of children being cared for, noise or type of physical activity.

(2) That the site provides ample outdoor play space, free from hazard and appropriately equipped for the age and number of children being cared for. Adequate fencing and screen planting may be required, if deemed necessary, to protect adjacent properties against intrusion.

(3) The use satisfies all applicable state and county requirements.

(4) If a child care center is located within one thousand (1,000) feet of another center, the cumulative effect of the centers will not have an adverse impact on the neighborhood due to noise, traffic, or other similar facts.

(b) *Special development and use requirements additional development standards.* The following standards shall apply to any such use unless operated by a nonprofit organization in buildings, structures, or on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial education purposes:

(1) Child care centers must meet the following lot size standards, based on the number of children being cared for at any one (1) time:

TABLE INSET:

Number of Children	Minimum Lot Area
9 to 12	7,000 sq. ft.
13 to 25	10,000 sq. ft.
26 to 40	20,000 sq. ft.
More than 40	30,000 sq. ft., plus 500 square feet for each child over 40

(2) If any child care center cares for more than one hundred (100) children at any one time, and if the special exception approval limits the use of the property so that no more than thirty (30) percent of the children are involved in outside activities at any one time, then the child care center must have a minimum lot area of thirty thousand (30,000) square feet plus four hundred (400) square feet for each child in excess of forty (40).

(Laws of Rockville, Ch. 6, § 4-205; Ord. No. 06-90, § 6, 3-12-90; Ord. No. 16-92, § 3, 10-26-92; Ord. No. 26-01, 9-25-01)

Sec. 25-356. Educational institutions, private.

(a) *Scope.* This section applies to private educational institutions, except for any private educational institution located on a lot or parcel that contains a church, synagogue, or other place of worship that is affiliated with the private educational institution.

(b) *Special development and use requirements.* The following special development and use requirements shall apply:

(1) **Additional Development Standards:**

a. Institutions which offer any general academic instruction at levels above the eighth grade must have:

1. A lot area of at least one (1) acre plus eight hundred seventy-five (875) square feet for each student in excess of fifty (50);
2. A lot frontage of at least three hundred (300) feet; and
3. Building setbacks of at least fifty (50) feet in the front yard, side yards equal to at least two (2) times the height of the tallest institutional building located on the lot which is proximate to the side yard and a rear yard of at least fifty (50) feet;

b. *Kindergartens or nursery schools must have:*

1. A lot area of at least ten thousand (10,000) square feet per thirty (30) students or fraction thereof;
2. A lot frontage of at least one hundred (100) feet; and
3. Building setbacks of at least thirty-five (35) feet in the front yard, side yards equal to at least the height of the tallest institutional building located on the lot which is proximate to the side yard and a rear yard of at least forty (40) feet;

c. All other private educational institutions must comply with the following:

1. Where the maximum attendance at any one time does not exceed forty (40) students, such institution must have:

(i) A lot area of at least ten thousand (10,000) square feet per twenty (20) students or fraction thereof;

(ii) A lot frontage of at least one hundred fifty (150) feet;

(iii) Building setbacks of at least thirty-five (35) feet in the front yard, side yards equal to at least the height of the tallest institutional building located on the lot which is proximate to the side yard, and a rear yard of at least forty (40) feet;

2. Where the maximum attendance at any one (1) time exceeds forty (40) students, such institution must have:

(i) A lot area of at least one (1) acre plus seven hundred (700) square feet for each student in excess of sixty (60);

(ii) A lot frontage of at least two hundred (200) feet; and

(iii) Building setbacks of at least fifty (50) feet in the front yard, side yards equal to at least two (2) times the height of the tallest institutional building located on the lot which is proximate to the side yard, and a rear yard of at least fifty (50) feet;

(2) Additional Screening and Landscaping Requirement. School buses shall be garaged or shall be stored in an area to the rear of the enclosed main building enclosed by such adequate screening as may reasonably be required by the Board of Appeals.

(Laws of Rockville, Ch. 6, § 4-206; Ord. No. 1-01, § 1, 1-8-01)

Sec. 25-257. Eleemosynary and philanthropic institutions

(a) *Scope.* This section applies to eleemosynary and philanthropic institutions.

(b) *Additional required findings.* The additional required finding is that the proposed use will not constitute a nuisance because of noise, traffic, number of people or type of physical activity.

(c) *Special development and use requirements in residential zones.* If the use is to be located in a residential zone, it must have:

(1) A lot area of at least twenty-five thousand (25,000) square feet;

(2) A lot frontage of at least one hundred fifty (150) feet; and

(3) Building setbacks of at least thirty-five (35) feet in the front yard, side yards equal to at least two (2) times the height of the tallest institutional building located on the lot which is proximate to the side yard, and a rear yard of at least forty (40) feet.

(Laws of Rockville, Ch. 6, § 4-207)

Sec. 25-358. Golf course, country club, private club, service organization or community building.

(a) *Scope.* This section applies to golf courses, country clubs, private clubs, service organizations or community buildings.

(b) *Additional required findings.* The additional required finding is that the proposed use will not constitute a nuisance because of noise, traffic, number of people or type of physical activity.

(Laws of Rockville, Ch. 6, § 4-208)

Sec. 25-359. Helistop, private or heliport, private.

(a) *Scope.* This section applies to helistops, private or heliports, private.

(b) *Additional required findings.* The additional required findings are as follows:

(1) That the site for such use has, prior to the hearing before the board, been inspected and reviewed for operational suitability by the Federal Aviation Agency, or successor agency; and

(2) That the recommendations and requirements of that agency for operational suitability have been or will be complied with prior to issuance of an occupancy permit.

(c) *Special development and use requirements.* Special development and use requirements shall be as follows:

(1) Additional Use Restrictions.

a. Operations of such use shall be limited to private helicopters not exceeding three thousand five hundred (3,500) pounds gross weight, except for emergency conditions;

b. Night operations shall not be permitted unless the landing and takeoff area is separated from the nearest residential use by more than four hundred (400) feet.

(2) Additional Development Standards.

a. The width of the landing and takeoff area shall be equal to at least one and one-half (1 1/2) times the overall length of the largest helicopter using such use and the length thereof shall be equal to at least the width;

b. Ground level landing and takeoff areas shall be paved according to the specification for off-street parking and loading areas contained in article IX of this chapter;

c. Ground level landing and takeoff areas shall be fenced with such materials having such height and location as is approved by the Federal Aviation Agency;

d. Appropriate warning signs shall be posted at all points of vehicular and pedestrian access to such area;

- (3) **Additional Parking, Loading and Access Requirement.** Any such use not operated in conjunction with another use on the same lot or an abutting lot shall provide at least five (5) parking spaces.

(Laws of Rockville, Ch. 6, § 4-209)

Sec. 25-360. Hospitals or nursing homes.

- (a) *Scope.* This section applies to hospitals and nursing homes.
- (b) *Additional required findings.* The additional required finding is that the use will not constitute a nuisance because of traffic, noise or number of patients or persons being cared for.
- (c) *Special development and use requirements.* The following special development and use requirements shall apply:
- (1) **Additional Development Standards for Hospitals.** Hospitals must have:
 - a. A net lot area of at least five (5) acres;
 - b. A lot frontage of at least two hundred (200) feet; and
 - c. Building setbacks of at least fifty (50) feet in the front yard, side yards equal to at least three (3) times the height of the tallest building located on the lot which is proximate to the side yard, but not less than seventy-five (75) feet, and a rear yard of at least one hundred (100) feet;
 - (2) **Additional Development Standards for Nursing Homes.** Nursing homes must have one thousand (1,000) square feet of net lot area per person cared for.

(Laws of Rockville, Ch. 6, § 4-210)

Sec. 25-361. Housing for the elderly and physically handicapped.

- (a) *Scope.* This section applies to housing for the elderly and physically handicapped.
- (b) *Additional required findings.* The additional required findings are as follows:
- (1) That the proposed use will not constitute a nuisance because of traffic;
 - (2) That the site proposed for such use is located sufficiently close or accessible to a general commercial or convenience goods shopping center to adequately meet the needs of the residents of such use.
- (c) *Special development and use requirements.* Unless stated otherwise, the following special development and use requirements shall apply to all zones where authorized by special exception except the R-H, C-2, RPC, RPR, O-1 and O-2 Zones:
- (1) **Additional Development Standards generally.** Such use must have:

- a. A record lot of at least two (2) acres;
- b. A lot frontage of at least one hundred (100) feet;
- c. Building setbacks of at least fifty (50) feet in the front yard, side yards of at least thirty (30) feet, and a rear yard of at least fifty (50) feet; and
- d. A minimum lot area of one thousand (1,000) square feet per dwelling unit;

(2) Additional Development Standards for R-20 and R-30 Zones. In the R-20 and R-30 Zones, such use shall have a maximum building height not exceeding seventy-five (75) feet.

(3) Notwithstanding the provisions of section 25-311, in the RS Zone, the maximum lot coverage shall be limited to thirty (30) percent; provided that the development of the elderly or physically handicapped facility does not exceed one (1) story and also does not exceed twenty (20) feet in height.

(Laws of Rockville, Ch. 6, § 4-211; Ord. No. 8-89, § 2(16); 4-24-89; Ord. No. 30-89, § 4, 10-30-89; Ord. No. 6-01, 2-12-01)

Sec. 25-362. Junkyards and building materials salvage yards.

(a) *Scope.* This section applies to junkyards and building material salvage yards.

(b) *Special development and use requirements.* The use must have:

- (1) A lot area of at least one (1) acre; and
- (2) A brick, stone or other form of wall approved by the board at least eight (8) feet in height within which such use must be conducted and which must be set back at least twenty-five (25) feet from the front lot line.

(Laws of Rockville, Ch. 6, § 4-212)

Sec. 25-363. Lumber and other building supplies, indoor sales and storage only.

(a) *Scope.* This section applies to lumber and other building supplies, indoor sales and storage only.

(b) *Additional required findings.* The additional required finding is that such use will not constitute a nuisance because of sidewalk or street traffic, noise or any other type of physical activity.

(c) *Additional development standards.* Adequate facilities shall be provided both for customer pickup and store delivery, as the Board of Appeals shall reasonably deem necessary.

(Laws of Rockville, Ch. 6, § 4-212.A)

Sec. 25-364. Restaurants in I-1, I-2, I-3 and I-4 Zones.

- (a) *Scope.* This section applies to restaurants, in the I-1, I-2, I-3 and I-4 Zones.
- (b) *Additional required findings.* The additional required findings are as follows:
 - (1) That such use is necessary for the service and convenience of the employees of the industrial zone in which it is located;
 - (2) That it is designed primarily for the service of employees in such zone; and
 - (3) That it will not constitute a nuisance to uses in such zone or any adjacent zone because of the generation of traffic, noise, odor or other factors.
- (c) *Special development and use requirements.* The establishment of a restaurant:
 - (1) Shall be secondary to the main use of any lot;
 - (2) Shall be located within the main building; and
 - (3) Shall not occupy more than twenty-five (25) percent of the gross floor area of the building.

(Laws of Rockville, Ch. 6, § 4-213; Ord. No. 3-90, § 7, 3-12-90)

Sec. 25-365. Retail sales and personal services in I-3 Zone, except restaurants, and branch offices of banks and savings and loan associations, and properties developed under the I-3 optional method of development.

- (a) *Scope.* This section applies to retail sales and personal services in the I-3 Zone. This section does not apply to the following:
 - (1) Restaurants;
 - (2) Branch offices of banks and savings and loan associations; or
 - (3) Properties developed under the I-3 optional method of development.
- (b) *Additional required findings.* The additional required findings are as follows:
 - (1) That such use is necessary to the convenience of businesses and employees in the immediate vicinity; and
 - (2) That it is designed primarily for the service of businesses and employees in the area.
- (c) *Special development and use requirements.* Special development and use requirements shall be as follows:
 - (1) **Additional Development Standards.**
 - a. Such use shall occupy no more than fifty (50) percent of the gross floor area of any building constructed in the I-3 Zone, and in no event more than fifty thousand (50,000) square feet of the gross floor area of such building;
 - b. Such use shall occupy a record lot which:

1. Has a minimum lot size of nine (9) acres; and
2. Has a minimum of five hundred (500) feet of total lot frontage on at least two (2) public roads of primary industrial classification or higher.

(2) Additional Parking, Loading and Access Requirements. Vehicular access to any lot occupied by such uses shall be provided from at least two (2) separate public roads;

(3) Additional Sign Requirements. Freestanding identification signs for such uses shall be prohibited.

(Laws of Rockville, Ch. 6, § 4-213.A; Ord. No. 3-90, § 8, 3-12-90; Ord. No. 14-99, § 3, 10-25-99)

Sec. 25-365.1. Personal living quarters.

The following findings are required.

(1) That the proposed use will not constitute a nuisance because of noise, traffic, number of people or type of physical activity; and

(2) That adequate on-site parking is available so the facility will not overburden the existing neighborhood.

(Ord. No. 20-90, § 4, 7-9-90)

Sec. 25-366. Outdoor motor vehicle or trailer sales in RPC and C-2 Zones.

(a) *Scope.* This section applies to outdoor motor vehicle or trailer sales in the RPC and C-2 Zones.

(b) *Special development and use requirements.* The following special development and use restrictions shall apply:

(1) Additional Use Restrictions.

a. No repairs or dismantling shall be permitted outside of a closed structure;

b. No dismantled, partly dismantled or wrecked motor vehicle or trailer shall be parked outside of an enclosed structure;

(2) Additional Sign Requirement. Display of banners, pennants or flags for the purpose of advertising is prohibited.

(Laws of Rockville, Ch. 6, § 4-215; Ord. No. 8-89, § 2(17), 4-24-89)

Sec. 25-367. Public utility buildings and structures.

(a) *Scope.* This section applies to public utility buildings and structures.

(b) *Additional required findings.* The additional required finding is that the proposed building or structure at the location selected is necessary for public convenience and service.

- (c) *Special development and use requirements.* In all residential zones where authorized, such use shall, whenever practicable, have the exterior appearance of a residential building together with such landscaping, screen planting and fencing as may reasonably be required by the board.

(Laws of Rockville, Ch. 6, § 4-216)

Sec. 25-368. Ready-mixed concrete plant.

- (a) *Scope.* This section applies to ready-mixed concrete plants.
- (b) *Special development and use requirements.* Such use must occupy a record lot which:
- (1) Has a lot area of at least two (2) acres;
 - (2) Is at least four hundred (400) feet away from any school site or parcel of ground zoned for residential use;
 - (3) Has no front wall of any building or structure or any fence less than twenty-five (25) feet from the front lot line; and
 - (4) Has an open or unobstructed front yard except for the off-street parking of private automobiles.

(Laws of Rockville, Ch. 6, § 4-217)

Sec. 25-369. Swimming pools, nonaccessory.

- (a) *Scope.* This section applies to nonaccessory swimming pools.
- (b) *Special development and use requirements.* The following special development and use requirements shall apply:
- (1) Additional Use Restrictions.
 - a. The membership of any such pool operated on a membership basis may not exceed four (4) times the legal capacity of the pool and a family membership shall be computed at three and one-half (3 1/2) persons;
 - b. In no event shall the membership of any such pool exceed twenty-eight hundred (2800) persons;
 - c. At no time shall more persons than the legal capacity of any pool be allowed on the lot on which such pool is located;
 - (2) Additional Development Standards.
 - a. Minimum lot size of any such pool shall be in accordance with the following table:

TABLE INSET:

Legal Capacity of Pool (persons)	Minimum Lot Area (acres)
-------------------------------------	-----------------------------

0--350	3
351--438	3 1/2
439--525	4
526--613	4 1/2
614--700	5

b. No such pool shall be located less than seventy-five (75) feet from the nearest property line nor less than one hundred twenty-five (125) feet from any existing single-family or two-family dwelling, except that where the lot upon which such pool is located abuts a railroad right-of-way, publicly owned land (except streets) or land in a commercial or industrial zone, the pool may be constructed not less than twenty-five (25) feet from such railroad right-of-way or publicly owned land.

(Laws of Rockville, Ch. 6, § 4-218)

Sec. 25-370. Taxicab service.

(a) *Scope.* This section applies to taxicab service.

(b) *Special development and use requirements.* The following special development and use requirements shall apply:

(1) All vehicles used in connection with such use shall be parked entirely within the lot on which the use is operated.

(2) Servicing of such vehicles, including but not limited to dispensing of gasoline and oil, is prohibited on the same lot.

(Laws of Rockville, Ch. 6, § 4-219)

(a) *Scope.* This section applies to veterinarian offices and animal hospitals.

(b) *Special development and use requirements.* The special development and use requirements shall be as follows:

(1) Such use must have a lot area of at least one (1) acre;

(2) No structures for the housing of animals shall be located less than fifty (50) feet from any residential use.

(Laws of Rockville, Ch. 6, § 4-220)

Sec. 25-372. Accessory apartments.

(a) *Scope.* This section applies to accessory apartments.

(b) *Special development and use requirements.* The following special development and use requirements shall apply:

- (1) An accessory apartment must be part of, or have at least one (1) party wall in common with, the main dwelling. An accessory apartment may not exist in an accessory building.
- (2) Only one (1) accessory apartment may be created in, or attached to, an existing one-family, detached dwelling.
- (3) The accessory apartment must not be located on a lot:
 - a. Which is occupied by a family of unrelated persons; or
 - b. Where any of the following residential uses exist: another apartment, rooms for rent, a boarding house; or
 - c. Which contains any other rental residential use.
- (4) Both the main dwelling and the accessory apartment must comply with all current development standards, including off-street parking requirements.
- (5) Any separate entrance to the accessory apartment must be located so that the appearance of a single-family dwelling is preserved.
- (6) All external modifications and improvements to the one-family detached dwelling in which the accessory apartment is to be created, or to which it is to be added, must be compatible with the existing dwelling and surrounding properties.
- (7) All modifications to the lot must be compatible with surrounding properties.
- (8) The accessory apartment must show the same street address (house number) as the main dwelling.
- (9) No variance may be granted to accommodate an accessory apartment.
- (10) The accessory apartment must house no more than three (3) persons and must be subordinate to the main dwelling.

(c) *Ownership requirements.*

- (1) The owner of a lot on which an accessory apartment is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any twelve (12) month period. The period of temporary absence may be increased by the Board at any time upon a finding that a hardship would otherwise result. Any request for an extension of the period of temporary absence made subsequent to the initial grant of the special exception shall be made in compliance with the procedures for modification of a condition of a special exception.
- (2) For the purposes of this section, "owner" means an individual who owns a substantial equitable interest in the property as determined by the Board.

(d) *Additional findings required.* The following additional findings are required:

(1) That such use will not constitute a nuisance because of traffic or number of people, and will cause no objectionable noise, odors or physical activity.

(2) That such use will not adversely impact on the parking or traffic situation in the neighborhood.

(e) *Restrictions.* The following restrictions on special exceptions for accessory apartments apply:

(1) The owner must comply with the certification requirements of Chapter 5, Article XII of this Code;

(2) The special exception is granted solely to the owner/applicant and does not run with the land;

(3) The special exception automatically expires when any of the following occurs;

a. The owner/applicant sells the property on which the accessory apartment is located; or

b. The owner/applicant no longer occupies any portion of the one-family dwelling in which the accessory apartment is located.

(4) The accessory apartment must be removed, dismantled or otherwise rendered inoperative within thirty (30) days of the expiration of the special exception.

(f) *Additional conditions.* The board may impose additional conditions deemed necessary to protect and limit any adverse impact on adjacent properties and the neighborhood, including, but not limited to:

(1) Restricting the number of people that may occupy the accessory apartment;

(2) Prohibiting rental of the accessory apartment;

(3) Limiting the total number of motor vehicles that may be parked on the lot; and

(4) Limiting the total number of vehicles that may be utilized and parked on-street by the occupants of both the accessory apartment and the main dwelling.

(Ord. No. 24-90, § 4, 9-10-90; Ord. No. 19-92, § 2, 11-9-92)

Sec. 25-373. Pawnbroker.

No pawnbroker shall be located within a structure that is located:

(1) Within five hundred (500) feet of the nearest property line of any residentially zoned property, or

(2) Within fifteen hundred (1500) feet of another structure in which a pawnbroker is located.

(Ord. No. 3-98, § 3, 2-23-98)

Sec. 25-374. Wireless communication facility.

(a) *Scope.* This section applies to wireless communication facilities mounted on freestanding antenna support structures.

(b) *Special development and use requirements.* Wireless communication facilities must comply with development standards in section 25-333.

(c) *Additional findings required.* The following additional findings are required:

(1) The location selected is necessary for the public convenience and service and cannot be supplied with equivalent public convenience on a building or structure or colocated on an existing antenna support structure.

(2) For new antenna support structures to be located in a residential zone or within five hundred (500) feet of a residential zone, it shall be demonstrated that a good faith effort has been made to locate the proposed antenna support structure in a nonresidential zone more than five hundred (500) feet from a residential zone, with adequate coverage and on an isolated site with minimal visual impact.

(3) The city may hire an independent consultant to review evidence submitted by the applicant, and the applicant shall reimburse the City for the reasonable cost of hiring and utilizing such a consultant.

(Ord. No. 20-01, § 8, 8-6-01)

Secs. 25-375--25-385. Reserved.